

# ***PRIVATIZATION OF ARMY UTILITY SYSTEMS***

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*Update 1 — March 2000*



## **A Guide for Army Garrison Commanders**

presented by  
the Office of the  
Assistant Chief of  
Staff for Installation  
Management

## *A Word from the ACSIM*

The Army has made great strides toward meeting the goals of DRID #49. I commend all installations for this excellent start. We still have much to do to complete the process for all Army systems that are subject to privatization.

As we move through the process, we are gaining knowledge and understanding of the complexities of transferring our infrastructure to the private sector. This series of brochures is developed to share our lessons learned with all our installations. As we identify more lessons, or related information, to assist you in your endeavors, we will be providing regular updates. If you have any areas you would like to see addressed in this medium, let me know.

**R. L. VAN ANTWERP**  
Major General, USA  
Assistant Chief of Staff for  
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## *Remember . . . Keep Your Utilities Privatization Status Current*

**Utilities Privatization Tracking System (PTS)**  
Privatization status must be reported quarterly to USD(A&T). The Army and OSD leadership rely on PTS for the latest information.

The PTS is located on the web at  
[www.sbcweb.calibresys.com/ptsWeb/default.asp](http://www.sbcweb.calibresys.com/ptsWeb/default.asp)



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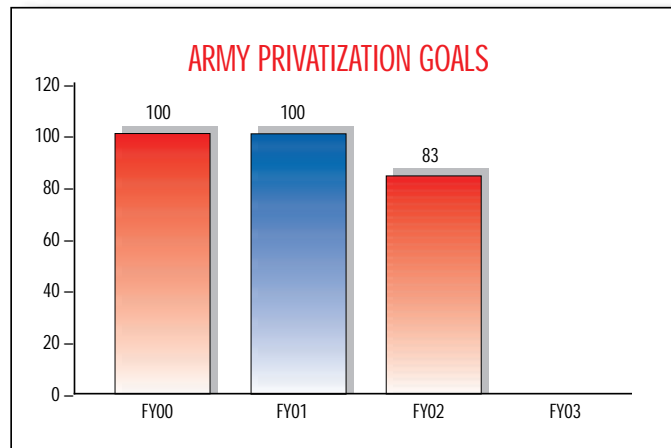


## *What is the Current Status of Utility Privatization for the Army?*

The Department of Defense issued Defense Reform Initiative Directive (DRID) #49 on December 23, 1998. It calls for the privatization of all Army owned utility systems (electrical, natural gas, potable water, and waste water) by September 30, 2003 except where privatization is uneconomical or where unique security reasons require ownership by the Department. The Army is focused on privatizing 320 systems located in the United States.

The DRID also established two intermediate milestones to measure progress: first, by September 30, 2000 make a determination for all systems whether or not to pursue privatization; and second, by September 30, 2001 release all solicitations for systems determined to be economical.

In FY99, the Army privatized or exempted 37 systems in FY99. To ensure program completion by the end of FY03, goals have been established to complete all actions by FY02. Lotteries were issued to all MACOMs in October 1999, identifying the current and future year goals. The current plan for the Army is displayed below:



## *Initiatives and Lessons Learned in Privatization*

Working through the process is a learning experience. Installations, MACOMs, and Army staff have worked diligently to resolve issues and roadblocks that have been encountered. Here are some examples —

### ■ **50 Year Legislation for Utility Privatization.**

Legislation was approved to allow for terms of up to 50 years when awarding a utility service contract when conveyance of distribution systems is included. This means we now have the authority to contract for utility privatization actions for more

than 10 years. Implementing guidance has been “fast-tracked” through the Acquisition community so we can utilize the authority.

Also included in the legislation is the authorization to use MILCON funds that have been programmed for a utility project for privatization support, and the authorization at the Secretary’s level to transfer land with a privatization contract. The normal land transfer process requires Congressional approval and can take as long as two years. In some instances, we may want to transfer land under wastewater treatment plants.

■ **Contribution in Aid of Construction (CIAC) Tax —**

The DoD has not been able to get relief from the CIAC tax. All economic analysis must include the tax as an expense item in the alternative to privatize, when applicable. If it is not economical to privatize, then it is necessary to submit a request for exemption.

■ **Teamwork —** Make sure the team includes your Director of Contracting, Director of Public Works, Judge Advocate General, Director of Resource Management, Environmental, Civilian Personnel Office, and your local Corps of Engineers District. Also use resources such as OACSIM, Corps of Engineers, Defense Energy Support Center, and contractors to help your team through the process. There’s no reason to “reinvent the wheel”. Several agencies and installations have issued solicitations, and in some cases completed the process. They are a good source of advice and could share their lessons learned with you.

■ **Obtain Approvals —** All privatization actions must be submitted through OACSIM for either (a) Congressional notification prior to contract award or (b) approval by the Secretary of the Army for an exemption.

## *What’s in a Congressional Notification Package for Contract Award?*

Once a Commander determines that a potential provider can successfully own, operate, and maintain the system(s), the installation must submit a request to notify Congress of the potential contract award. Congressional notification is required in accordance with DRID #49. The following documents must be included in the package and forwarded through the MACOM to OACSIM —

- **Letter from Installation to MACOM requesting notification of contract award.**
- **Endorsement by MACOM to OACSIM.**
- **Written synopsis of process** conducted to solicit for award, including analysis, alternatives, feasibility, and results.
- **Complete Economic Analysis** prepared in accordance with published guidelines and created in ECONPACK.
- **Copy of the proposed contract.**

When the package is received at OACSIM, the documents are reviewed and evaluated. The package is also reviewed by several Army staff offices including — Assistant Secretary of the Army — Financial Management; Assistant Secretary of the Army — Acquisitions, Logistics, and Technology; Office of General Counsel; Office of The Judge Advocate; and other appropriate offices.

After concurrence by all offices, the package is forwarded through the ACSIM to the Deputy Assistant Secretary of the Army — Installations and Housing. The DASA issues the package and the Congressional notification letters. The 21-day notification period begins when the letters are received on the “hill”. Occasionally Congressional staff members have questions that must be answered within a short time frame. Installation personnel should be responsive to the OACSIM POC when answering Congressional queries. Upon conclusion of the 21 day period, barring no open questions or issues, OACSIM notifies the MACOM to proceed with awarding the contract.

### *What's in a Request for Exemption Package?*

If a Commander determines that it will not be economically feasible to privatize a system, the installation must submit a request for exemption. Only the Secretary of the Army has the authority to approve exemptions from privatization. The following documents must be included in the package and forwarded through the MACOM to OACSIM.

- **Letter from Installation to MACOM requesting exemption from privatization.**
- **Endorsement by MACOM to OACSIM.**
- **Written synopsis of process** conducted to solicit for award, including analysis, alternatives, feasibility, and results.
- **Complete Economic Analysis** prepared in accordance with published guidelines and created in ECONPACK.
- **Letters from the Contracting Officer and the Legal Counsel** concurring with the analysis, review, and decision to request exemption. (Note — these are separate memos.)

As with the notifications for contract award, all packages are reviewed by several Army offices and OACSIM. The request for exemption package is then forwarded through the chain of command to the Secretary of the Army. Once the request is approved, OACSIM notifies the MACOM and the system is exempted from privatization.

## *Exemptions*

Receiving, an exemption from privatization can be a “two-edged sword”. Per DRID #49 guidance, the Army should not complete a privatization action unless it is economically feasible and in the best interest of the government. Some installation personnel will be pleased with an exemption, but the inability to receive an economically feasible proposal for a system could lead to a continued decline in system operability if the installation is not able to obtain resources to upgrade and improve those systems.

While privatization provides a “must fund” bill by contracting for the services, exemption does not guarantee funding at the levels identified by the government “should cost” estimate. However, the inventory and improvements plan to upgrade a system to industry standards can provide documentation and justification when competing for minor and major construction funds and maintenance dollars. When making the final decision to privatize or exempt, weigh all the factors.

## *RCI and BRAC, How Do They Fit?*

Residential Communities Initiative (RCI) and Base Realignment and Closure (BRAC) do not adversely impact the privatization process. RCI can be handled as a complimentary process. If your installation is involved in RCI and Utilities Privatization at the same time, ensure that the personnel involved in both processes are fully coordinating. Knowing where a new housing area is planned for future construction, can prevent unnecessary costs and avoid potential future conflicts while developing the requirements for a privatization contract which could extend into the next 10-50 years. Coordinating the location of new utilities is useful to both programs. Coordinate and cooperate.

Base Realignment and Closure is conducted under separate authorizations. When an installation comes under BRAC for closure or realignment, any privatization contacts will have to be included in the “buy out” costs for the installation. If the installation is undergoing a BRAC action at the same time as a privatization action, the utility systems usually will be handled under the BRAC and Local Reuse Agency (LRA) authorities. Be sure and coordinate with the BRAC personnel, if the installation is scheduled for the BRAC process in the near term.

## POINT OF CONTACT

**Director of Facilities and Housing**, Office of the Assistant Chief of Staff for Installation Management (OACSIM), HQDA formulates Army policy on utilities privatization; provides Army Staff executive oversight, and coordinates all staff actions to secure Secretary of the Army authorization for privatizing utility systems, (including land transfer if required), and exemptions.

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